

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

BRENDA BATISTE

V.

**CITY OF BEAUMONT, CITY OF
BEAUMONT POLICE DEPART-
MENT, TOM SCOEFIELD, PAUL
PERRIT, RAY E. BECK, and
DARLENE WISBY**

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NO. 1:05-CV-109

**MEMORANDUM ORDER ADOPTING
MAGISTRATE JUDGE'S REPORTS AND RECOMMENDATIONS**

The court referred this matter to the Honorable Earl S. Hines, United States magistrate judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court, particularly Bmt. Gen. Order 04-07.

The magistrate judge submitted a “Report and Recommendation Re Qualified Immunity” which recommends that the court (a) reconsider its earlier order denying the individual defendants’ motion to dismiss, (b) sustain the qualified immunity defenses asserted by defendants Tom Scoefield and Ray E. Beck, and (c) grant their motion to dismiss based on immunity.

No objections have been filed. Further, upon independent review, the court concurs with the magistrate judge’s analysis. Accordingly, the court concludes that the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (Docket No. 34) is **ADOPTED**.

By separate orders, the court will implement the recommendations of the magistrate judge.

For clarity, the court hereby notifies the parties that the claims now remaining for adjudication are:

- A. Section 1983 allegations of excessive force against defendants Perrit and Wisby, implicating the Fourth Amendment's protection from unreasonable seizure and the Fourteenth Amendment's guarantee of Due Process; and
- B. Texas Tort Claims Act and Section 1983 allegations of municipal liability against the City of Beaumont based upon alleged implementation or execution of a policy or custom that was the moving force behind the asserted Fourth and Fourteenth Amendment violations.

So **ORDERED** and **SIGNED** this **10** day of **March, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge